

**Title 12 Recodification Project  
Relocation of Liquor Laws Proposal  
Tuesday, October 24, 2017  
10:00 a.m.  
State Capitol, Senate Committee Room 352**

| Article & Topic  | Staff  |
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| Relocation of the following to a new title 44: <ul style="list-style-type: none"><li>Articles 46, 47, &amp; 48 of title 12 – Colorado Beer Code, Colorado Liquor Code &amp; Special Liquor Permits Laws</li><li>Part 4 of article 35 of title 24 – Liquor enforcement division and state licensing authority cash fund</li></ul> | Christy Chase<br>Thomas Morris<br>Jessica Wigent |

**Persons present:**

Alan Call, Attorney General's Office, representing Liquor Enforcement Division  
Jacob Baus, Liquor Enforcement Division  
Andres Gil, Colorado Brewers Guild  
Nick Hoover, Colorado Restaurant Association  
Brock Herzberg, Wine Institute  
Jean Robinson, Department of Revenue

**Discussion of proposals to relocate articles 46, 47 & 48 of title 12 and part 4 of article 35 of title 24:**

Christy Chase, Office of Legislative Legal Services (OLLS), explained the two proposals:

1. To relocate the Colorado Beer Code (art. 46 of title 12), the Colorado Liquor Code (art. 47 of title 12), and special liquor permits laws (art. 48 of title 12) to a new title 44; and
2. To relocate part 4 of article 35 of title 24, pertaining to the liquor enforcement division and state licensing authority cash fund, to the new title 44

Christy explained that the proposals do not include any substantive-law changes and are simply proposing to relocate – essentially, to renumber – the liquor laws.

*Alan Call, AG's Office, and Jacob Baus, representing the Liquor Enforcement Division (LED)*

Alan & Jacob posed procedural questions — if a new statute is added to the Liquor Code in the 2018 session, it's trickier when moving the entire statute—what happens?

Christy and Tom Morris explained that the OLLS will figure out how to harmonize that through the OLLS' publications and revisions process. OLLS has a process to deal with conflicts between changes in a statute by multiple bills, though it is unlikely, considering that the relocation bills do not contain substantive law changes. Alan & Jacob noted that the LED director expects many bills to be run this next legislative session, hence the concern about harmonizing.

In response to Alan's question about conforming changes to references to limited gaming laws (also part of a separate title 12 relocation proposal) in the liquor bill, Christy explained that those changes will be dealt with as a conforming amendment in the limited gaming relocation bill.

Alan & Jacob noted that the relocation bill will drive lots of rule and form changes, which could be a challenge for both the state and local licensing authorities. They asked if it would be possible to have a January 1 effective date on the bills to allow LED more time to update statutory citations in rules and forms.

As Christy explained, the issue this creates is that we would have to publish two versions of the liquor laws, which is problematic from a publishing standpoint. Christy will discuss this issue with the Revisor of Statutes to see if we can address the timing issue in another manner so as to give the LED time to update forms and rules.

Christy also noted that part of the process is to create a comparative table for the relocation bills, and maybe this could be provided with the rules until they are updated with the correct citations.

Alan said they have not had a chance to talk with the Department of Revenue regarding relocating the nontax regulatory functions of the department. Christy pointed out that that this was a suggestion from the Department of Revenue during stakeholder meetings and feedback in the 2016 interim. Relocating the LED cash fund is ancillary to the major project; the main focus is moving title 12 articles (as opposed to moving laws from title 24).

With regard to the proposal to relocate the fund, Christy noted that she created a new article in the new title. Given that it relates specifically to the liquor laws and enforcement division, she asked whether it made more sense, structurally, to put the fund within the newly created article that contains the liquor laws. Right now, the AG's office has no strong feelings either way but will provide follow-up feedback.

Christy reminded the group to contribute any feedback before the COLS meeting on November 15 so that it can be shared with the Committee.

*Nick Hoover, Colorado Restaurant Association*

Nick noted that since his organization is looking at running a number of liquor law bills during the 2018 legislative session, he is wondering what happens when conflicts do happen between the relocation bill and the substantive bills.

Christy explained that if you make a substantive change to the law in another bill, it will be harmonized into the relocation bill. The only way a conflict would occur is if the relocation bill made substantive change to a specific provision of the statute that conflicted with a new bill. There should be no conflicts with the bills that will be run during the 2018 legislative session.

Nick noted that there is general concern about relocating liquor laws this year due to the number of changes that are being proposed to the liquor law this year. He noted that there could be a period of time when stakeholders are looking at the bill—not the statutes--when enforcing laws before the statutes are printed.

Christy made it clear that the relocation bill would in no way prevent any other legislation concerning the liquor laws. Stakeholders present in the room indicated that the explanation of how bills are harmonized assuaged their concerns about potential conflicts between substantive bills and the relocation bill.

Christy asked whether it would be helpful for OLLS to put something about the harmonization process on the Title 12 Project webpage. She noted that there's no policy change in the relocation bill, just a renumbering, and that effective dates will not prevent the harmonization of the relocation bill with any other bill that changes the law.

All agreed that an explanation of the harmonization process posted on the Title 12 Project webpage would be helpful and could eliminate some concerns from others in the liquor industry who were not present at the meeting.



**COLORADO**

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November 03, 2017

VIA E-MAIL

(christy.chase@state.co.us, jane.ritter@state.co.us, thomas.morris@state.co.us)

Office of Legislative Legal Services  
200 E. Colfax Ave., Rm. 091  
Denver, CO 80203-1716

Dear Office of Legislative Legal Services (“OLLS”):

The Colorado Department of Revenue’s Liquor Enforcement Division (“LED”) sincerely appreciates the opportunity to comment on the drafted bills regarding the non-substantive relocation of articles 46, 47, and 48 of title 12 to a new title 44.

## I. GRAMMAR

The LED identified drafted amendments that may codify improper grammar. The LED recommends that these drafted amendments are reviewed and revised to ensure proper grammar.

- a. The drafted amendment does not include a necessary conjunction (see 44-3-103(3) [formerly 12-47-103(2.5)] p. 5, l. 12-13).<sup>1</sup> The LED recommends adding “or” between “44-4-417” and “44-4-104(1)(a)” to conform to the original language.
- b. The drafted amendment includes a duplicative word (see 44-3-402(2)(c)(IV) [formerly 12-47-402(2)(c)(IV)], p. 74, l. 11). The LED recommends deleting the duplicative “this.”
- c. The drafted amendment does not include a common convention (see 44-3-410(1)(b)(IV) [formerly 12-47-408(1)(b)(IV)], p. 104, l. 24). The LED recommends adding “this” before “article 3” to conform to the common convention.

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<sup>1</sup> All page and line citations refer to the unnumbered bill titled “Concerning the nonsubstantive relocation of laws related to the regulation of alcohol beverages from title 12, Colorado Revised Statutes, to a new title 44 as part of the organizational recodification of title 12,” unless noted otherwise.



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- d. The drafted amendment unnecessarily changes wording (see 44-3-501(5) [formerly 12-47-501(4)], p. 152, l. 16). The LED recommends either reinstating “shall not be” to conform to the original language and avoid an unintended substantive change, or revising the proposed language.
- e. The drafted amendment changes the original plural form with a singular form (see 44-4-105(1)(a) [formerly 12-46-105(1)(a)], p. 212, l. 23). The LED recommends changing the proposed “rule” to “rules” to conform to the original language.

## II. TITLES

The LED identified drafted amendments that may change the title to statutory provisions. The LED does not object to these changes. However, the LED recommends that these drafted amendments are noted by applying the small capitalization convention, which makes the drafted amendment obvious to all stakeholders.

- a. The drafted amendment adds “rules” to the title (see 44-3-304 [formerly 12-47-304], p. 49, l. 4).
- b. The drafted amendment adds “definition” to the title (see 44-3-307 [formerly 12-47-307], p. 52, l. 21).
- c. The drafted amendment adds “definition” to the title (see 44-3-311 [formerly 12-47-311], p. 64, l. 1).
- d. The drafted amendment adds “rules” to the title (see 44-3-401 [formerly 12-47-401], p. 70, l. 11).
- e. The drafted amendment adds “rules” to the title (see 44-3-403 [formerly 12-47-403], p. 78, l. 24).
- f. The drafted amendment adds “rules” to the title (see 44-3-409 [formerly 12-47-407], p. 98, l. 27).
- g. The drafted amendment adds “definition” to the title (see 44-3-417 [formerly 12-47-415], p. 124, l. 10).



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- h. The drafted amendment adds “definition” to the title (see 44-3-419 [formerly 12-47-417], p. 129, l. 2).
- i. The drafted amendment adds “rules” to the title (see 44-3-503 [formerly 12-47-503], p. 153, l. 14).
- j. The drafted amendment adds “definitions” to the title (see 44-3-801 [formerly 12-47-801], p. 171, l. 12).
- k. The drafted amendment adds “repeal” to the title (see 44-3-901 [formerly 12-47-901], p. 174, l. 15).
- l. The drafted amendment adds “definition” to the title (see 44-3-903 [formerly 12-47-902.5], p. 194, l. 20).
- m. The drafted amendment adds “rules” to the title (see 44-4-107 [formerly 12-46-107], p. 215, l. 3).

### III. CITATIONS

The LED identified drafted amendments that may codify improper citations. The LED recommends that these drafted amendments are reviewed and revised to ensure proper citations.

- a. The drafted amendment does not include a citation to the title number (see 44-3-307(3)(c)(V) [formerly 12-47-307(3)(c)(V)] p. 55, l. 17). The LED recommends adding “44” after “title” to conform to the common convention.
- b. The drafted amendment does not include “section” (see 44-3-418(2)(b) [formerly 12-47-416(2)(b)] p. 127, l. 19). The LED recommends adding “section” before “44-4-104(1)(c)” to conform to the original language.
- c. The drafted amendment makes an incorrect citation (see 44-3-420(4) [formerly 12-47-418(4)] p. 132, l. 2). The LED recommends replacing “article 33” with “article 3” to conform to the intended citation.



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- d. The drafted amendment does not include “section” (see 44-3-501(3)(a)(XIV) [formerly 12-47-501(2)(a)(XIV)] p. 151, l. 2). The LED recommends adding “section” before “44-3-501(3)(a)(XIV)” to conform to the original language.
- e. The drafted amendment does not include “section” (see 44-3-501(3)(a)(XVI) [formerly 12-47-501(2)(a)(XVI)] p. 151, l. 7). The LED recommends adding “section” before “44-3-501(3)(a)(XVI)” to conform to the original language.
- f. The drafted amendment does not include necessary language (see 44-3-901(10)(a)(II)(B) [formerly 12-47-901(9)(a)(II)(B)] p. 190, l. 3). The LED recommends adding “of this section” after “subsection (10)(a)(II)(A)” to conform to the common convention.
- g. The drafted amendment does not note the drafted amendment (see 44-3-904(2) [formerly 12-47-903(2)], p. 197, l. 6). The LED recommends applying the small capitalization convention to “or” so that the drafted amendment is obvious to all stakeholders.
- h. The drafted amendment does not note the drafted amendment (see 44-3-904(6) [formerly 12-47-903(5)], p. 198, l. 1). The LED recommends applying the small capitalization convention to “or” so that the drafted amendment is obvious to all stakeholders.
- i. The drafted amendment makes an incorrect citation (see 44-4-104(1)(a)(I) [formerly 12-46-104(1)(a)(I)], p. 208, l. 26). The LED recommends deleting the added citation to subsection “(3)” to conform to the original citation and to avoid an unintended substantive change.
- j. The drafted amendment makes an incorrect citation (see 44-4-104(1)(a)(II) [formerly 12-46-104(1)(a)(II)], p. 209, l. 8). The LED recommends deleting the added citation to subsection “(3)” to conform to the original citation and to avoid an unintended substantive change.



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#### IV. TITLE 12 CROSS-REFERENCES

The LED identified citations within the drafted bills that do not propose amendments to cross-references within title 12. The LED understands that the OLLS has a comprehensive procedure to note and amend citations that will also change pursuant to this non-substantive relocation effort. However, the LED wanted to take this opportunity to note the cross-references to title 12 that may require amending in the future.

- a. Reference to “article 60 of title 12” (see 44-3-103(42) [formerly 12-47-103(25)], p. 13, l. 13).
- b. Reference to “article 47.1 of title 12” (see 44-3-103(47) [formerly 12-47-103(30)], p. 14, l. 11-12).
- c. Reference to “section 12-47.1-501(1)(c)” (see 44-3-416(1) [formerly 12-47-414(1)], p. 122, l. 24).
- d. Reference to “articles 47.1 and 60 of title 12” (see 44-3-901(6)(n)(I) [formerly 12-47-901(5)(n)(I)], p. 186, l. 23-24).
- e. Reference to “sections 12-46-105(2) and 12-47-502(1)” (see 44-6-101 [formerly 24-35-401], p. 4, l. 19).<sup>2</sup>
- f. Reference to “articles 46, 47, and 48 of title 12” (see 44-6-101 [formerly 24-35-401], p. 4, l. 23).<sup>3</sup>
- g. Reference to “12-46-105” (see 44-6-101 [formerly 24-35-401], p. 5, l. 5, 7).<sup>4</sup>
- h. Reference to “12-47-502” (see 44-6-101 [formerly 24-35-401], p. 5, l. 12, 14).<sup>5</sup>

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<sup>2</sup> “Concerning the nonsubstantive relocation of the law creating the liquor enforcement division and state licensing authority cash fund from title 24, Colorado Revised Statutes, to a new title 44 as part of the organizational recodification of title 12.”

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.





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## V. SUBSTANTIVE CHANGES

The LED identified drafted amendments that may codify substantive changes to original language. The LED recommends that these drafted amendments are reviewed and revised to ensure there are no substantive changes pursuant to this non-substantive relocation effort.

- a. The drafted amendment deletes a necessary word (see 44-3-301(7) [formerly 12-47-301(7)], p. 32, l. 9). The LED recommends reinstating the deleted “such” because the LED relies on “such” as an operative word affecting the meaning of this provision. Here, the word “such” is an important reference back to the first clause of the sentence, which makes it clearer that the exception to the reporting requirement for transfers of stock totaling less than ten percent in any one year only applies to transfers of stock of a public corporation. The LED is considering that deleting “such” may have no substantive impact on the meaning of this provision. However, the LED is uncomfortable deleting this “such” under the circumstances of this non-substantive relocation effort, and without having the opportunity to fully analyze the impact of its deletion.
- b. The drafted amendment deletes a necessary word (see 44-3-428(4)(c) [formerly 12-47-426(4)(c)], p. 146, l. 13). The LED recommends reinstating the deleted word “shall.” The original language communicates that these are two independent activities; that is, notifying the licensing authorities of registered manager’s departure, and designating a new registered manager. By including the term “shall” before each independent activity, the provision communicates that each activity is independently required. By deleting “shall” before the latter activity, the LED believes there could be a substantive impact on the meaning of this provision.
- c. The drafted amendment changes the operative conjunction (see 44-3-904(5) [formerly 12-47-903(4)] p. 197, l. 22-23). The LED recommends changing the proposed “or” to “and” to conform to the original language and to avoid an unintended substantive change.



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- d. The drafted amendment unnecessarily changes a word (see 44-4-104(1)(b) [formerly 12-46-104(1)(b)], p. 209, l. 12). The LED recommends reinstating “any” to conform to the original language and avoid an unintended substantive change.

## VI. CASH FUND

The OLLS asked the LED whether the statute regarding the liquor enforcement division and state licensing authority’s cash fund should be relocated to the proposed section 44-6-101, or relocated into article 3 of title 44.<sup>6</sup> If this statute must be relocated from its original location, the LED prefers to relocate it to section 44-6-101, as opposed to relocating it within article 3 of title 44.

The LED sees that the statute is currently positioned alone within its own article. In order to preserve that separation and avoid unintentionally disrupting the Colorado Liquor Code as a whole, it is preferred to keep this statute outside of article 3 of title 44.

The LED sincerely thanks the OLLS for its time, effort, and cooperation regarding the non-substantive relocation of articles 46, 47, and 48 of title 12 to a new title 44. Please contact the LED regarding any questions, comments, or concerns regarding our comments or this effort.

Sincerely,

Patrick Maroney  
Director  
Liquor Enforcement Division

Cc: Jean Robinson, Department of Revenue  
Donia Amick, Liquor Enforcement Division  
Jacob Baus, Liquor Enforcement Division  
Alan Call, Office of the Attorney General

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<sup>6</sup> Id.